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AMERICAN LEGISLATION

FOR THE

INEBRIATE

BY

A. OAKEY HALL

EX-MAYOR OF NEW YORK

*(Paper read to the Society for the Study and Cure of Inebriety,
and reprinted from the Proceedings.)*

LONDON

H. K. LEWIS, 136, GOWER STREET, W.C.

[SIXPENCE.]

Society for the Study and Cure of Inebriety.

At the meeting at which Mr. Oakey Hall's paper was read, it was resolved :
"That the President be requested to bring Mr. Oakey Hall's able and comprehensive paper before the Prime Minister, Home Secretary, and the Legislature."

This clear and statesmanlike account of the noble legislation in the United States on behalf of the helpless confirmed inebriate is now published in the hope that an awakened public conscience may lead to a realization of the shameful fact that at present THERE IS NO HOME IN BRITAIN, under the provisions of the "Habitual Drunkards Act," into which the DESTITUTE INEBRIATE, desirous of reformation, CAN be received. WHO WILL AID IN THE REMOVAL OF THIS NATIONAL DISGRACE?

NORMAN KERR, M.D.,

President.

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REGENT'S PARK, N.W.

AMERICAN LEGISLATION FOR THE INEBRIATE.*

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I COULD interestingly devote much time to narrating the progress in America of the doctrine that Inebriety, after passing through stages of selfish desire and vice, can finally reach a stage of disease to be radically treated in hospitals, asylums, or retreats, instead of being treated by the pillory, as was prescribed by a statute of James I., quoted in Blackstone, or by the treadmill or prison so lately as the time of William IV. But such a narrative would perhaps only reiterate much already published, and would invite a task not comprehended within my assigned theme. We all admit the stage of disease in Inebriety, and I am to refer only to the legal treatment thereof in the United States.

I shall mainly select the type of such legal treatment as is impressed upon the legislation of New York State, to which many sister States have paid the sincere flattery of imitating its general legal doctrine and procedures in the treatment of Inebriety. Which imitation was quite appropriate, for New York is one of the oldest of the States, and New York City remains the most English in its traditions and customs of all the cities which in Colonial times received royal charters from Great Britain.

In that State it has long been admitted by legislators, as a social

* Paper read at a meeting of the Society for the Study and Cure of Inebriety, held in the rooms of the Medical Society of London, on 7th October, 1884. Dr. Norman Kerr, F.L.S., President, in the chair.

fact and as a moral necessity, that the confirmed Inebriate ought to be compulsorily quarantined—as the State would quarantine scarlet fever, varioloid, yellow fever, cholera, or Chinese leprosy.

If it were supposable that American legislation—erratic as it sometimes is—was based as to this subject upon poetry, I should select two verses from a pamphlet now in the British Museum, with this title, “The Drunkard’s Prospective, or Burning Glasse. Composed by Joseph Rigbie, Gentleman, Clerke of the Peace of the County Palatine of Lancaster. London: Printed for the Author, and are to be sold at the Brazen Serpent in St. Paul’s Churchyard, 1656.”

One verse runs thus :—

“Drink beasiates the heart, and *spoiles the brains,*
Exiles all reason, all good graces staines,
 Infatuates judgement, understanding blinds,
 Perverts the wits, and doth corrupt the minds,
 It doth surprize the thoughts, and it doth *all*
The powers and faculties of soule enthrall.”

These versicles plainly express that Inebriety in its grossest forms amounts to disease.

Another verse suggests the necessity of legislation :

“To you churchwardens, constables, and others,
 That love the Lord, the Church, the State, your brothers,
 Yourselves, your sons, the people of the land,
 Put forth against this sin your helping hand.
 Help, help the Lord, **THE LAWES**, some ground to win,
 Against I say, against this mighty sinne.”

Half a century ago American legislators recognized that there was a class of Inebriates who had—as has been well phrased—“a disease of incapacity,” and its victim one whose craving for intoxicating drink was stronger than his better self, whose better self was overwhelmed, and his sense of right, wrong, love, fear, pride, and shame was obliterated. This doctrine having been agreed to, American legislators simply added Inebriety in those extreme stages to the list of diseases for which the State cared. It is difficult for Englishmen to realize to what an extent the care of diseased persons at the public expense in hospitals and retreats is carried in America. Each State levies taxes to support those. *All* the city governments are noted for their really lavish expenditure upon hospitals and retreats. New York City, for instance, is named “the City of Charities,” because of its outlay in such behalf. In its City Govern-

ment is a Department of Public Charities, governed by a Board of Charity Commissioners. Among the charities cared for from the first of its history was a Charity Hospital, with a compartment for non-infectious diseases, a small-pox ward, one for sexual diseases, and one for lunatics—the *insana mens*, although *in sano corpore*. Last year £400,000 of public monies in New York City went to the support of such public hospitals, and for donations to many private ones. When, therefore, the confirmed and will-powerless Inebriate became equally acknowledged to be a diseased person, it was simply in accordance with the public system that the State should provide him or her with a public Hospital or Retreat. The public-hospital system was not only based upon the eleemosynary feeling, but upon a sense of public security and welfare. One hospital was for the merely unsound body, in which this unsoundness carried contagion or infection, with injury to the public weal and comfort. What more consistent than that another public hospital should be added in behalf of the diseased will, when coupled with the diseased body, as the result of Inebriety? With hospitals supported entirely by voluntary contributions under State guarantees, exist also in America private retreats for the diseased Inebriates, which retreats are protected by State authority, and are aided in their operations by State procedures. The Dipsomaniac then took legal place beside the Monomaniac, or the Homicidal-maniac, or the Delusionist. The Dipsomaniac has not only to be protected against himself when helpless in the clutches of his temptation, but society must be protected against him. The first germ of American legislation on the subject was planted in the statute book by the passage of laws that aimed to substitute for a vanished individual will a statutory will, and to replace a vacated individual judgment with a statutory judgment. The legislators enacted procedures by which friends and relatives could put this statutory will and that statutory judgment in force, to compel the Dipsomaniac to enter a hospital or retreat in behalf of his disease. Soon the legislators found that there were Dipsomaniacs who had lost all friends or relatives, and who were simply the wards of the State. This led to establishing public places into which the Dipsomaniac could be pushed, as it were, by the strong arm of the Law for treatment and cure. Only a few weeks ago I read that an East-End magistrate, to whom a wife had complained of a drunken and diseased husband, who threatened the life of herself and of their children, answered, "I can do nothing for you." In America the magistrate would

have instantly issued a warrant for the husband's apprehension, and have had him summarily examined by an official physician, and on the certificate of the latter, and on the affidavits of the wife and neighbours (with opportunity of his being heard in his own defence), have committed him to a public Retreat for the Inebriate; and, *pari passu*, as in the case of a person charged with a loathsome disease. American legislation throughout the thirty-seven States is now co-operative in such respects (differing only in details of a local colour), as well as in schemes of jurisprudence regarding the disease of Inebriety. The universal statutory theory in the States is, that, like as out of the vices of sexuality grows the disease, *par exemple*, of paresis, so out of the vice of Intemperance grows the disease of Inebriety. Against the latter American legislation writes the maxim, *Salus populi suprema lex*. It protects society against him or her who has drunk himself or herself into a state of perfect loss of a resisting power. Fifty years ago the laws of New York, in conferring upon the Supreme Court powers to deal with confirmed (and in this connection the word "*diseased*" has become in American legal arguments and decisions quite convertible with "confirmed") Inebriates, classified Inebriates, under that phrase confirmed, in the same category with "idiots, lunatics, and persons of unsound mind"—all in one phrase of statutory enumeration. This classification I remember particularly struck the mind of Dr. Stephen S. Alford when he was in the States a few years ago, and whose observations resulted in an exhaustive paper on American Inebriate Asylums; that is filed with the Social Science Association.

Prior to the year 1857 (when the first charter of a Public and State-aided Asylum or Retreat for the diseased drunkard was enacted in New York, relating to an establishment at Binghamton, and when the Boston private asylum for the diseased drunkard was put into operation) the Supreme Court of New York had power to order an inquisition of fact by a jury in a summary way at request of any relative of a confirmed drunkard, and if the fact of disease was established, the Court ordered him to be confined. What for? That his family might be protected? that an estate should not be wasted? yes; but for the additional object (and thus expressed always in the Court order) of "treatment" also. In 1857 the Legislature of New York also recognized that the public and the community had some rights to be looked after with regard to the confirmed drunkard—rights of security, not to say of example in an express way—and the Legislature then instituted what has since

become a thoroughly developed system of summarily inquiring (in the name of the sovereignty of the people, on complaint of authorities or private citizens, not relatives of an accused confirmed drunkard) into the matter, and of discharging or of confining the diseased Inebriate for a term of (not punishment, except perhaps in "a quasi" way, but of) "treatment and cure"!

I now quote from a few American statutes as to Laws regulating the Admission of Inebriates to various Asylums. I quote them as being samples of laws as to spirit and scope existing in other States than those now named.

EXTRACT FROM CHARTER OF NEW YORK STATE INEBRIATE
ASYLUM, INCORPORATED MARCH 27, 1857.

§ 4. The object of this Institution shall be for the *medical treatment and control* of the inebriate.

§ 9. Said Institution shall have power to receive and retain all inebriates who enter said Asylum, either voluntarily *or by the order of the committee of any habitual drunkard. All poor and destitute inebriates who are received into said Asylum shall* be employed in some useful occupation in or about the Asylum. Said inebriates shall have all moneys accruing from their labour after the expenses of their support in said Asylum shall have been paid, which shall be sent to their families monthly. If said inebriates have no families it shall be paid to him or her on his or her discharge from said Institution.

INEBRIATES' HOME, NEW YORK, KING'S COUNTY, 1867.

§ 6. Upon becoming satisfied by return of a commission as heretofore provided that any person is an habitual drunkard, and incapable, in consequence thereof, of conducting his or her own affairs, said Justice shall have power, in his discretion, to issue his warrant, committing the person so found to be an habitual drunkard to the custody of the said "Home," to be detained in the said "Home" for such period, not exceeding one year, as the said Justice may deem proper, and such warrant shall be executed by any member of the Metropolitan Police. Any such warrant, duly issued, shall be full and sufficient justification for all acts done by any properly authorized officer, under and in accordance therewith. Such order of commitment may at any time be

vacated or modified by any Justice of the Supreme Court, on cause shown.

§ 8. The estate of any person committed to such "Home," and the person committed, shall be liable for the support of such person therein, and the committee of every such person shall pay out of his estate such reasonable and proper sum as shall be fixed by the Justice ordering the commitment.

EXTRACT FROM ACT OF INCORPORATION OF THE WASHINGTONIAN HOME OF CHICAGO, APPROVED FEBRUARY 16, 1867. (STATE OF ILLINOIS.)

§ 2. Object—the care, CURE and reclamation of inebriates.

§ 5. Any persons sentenced by the authorities of the City of Chicago to the Bridewell or House of Correction, for intemperance, drunkenness, or for any misdemeanour caused thereby, may, with the consent of the proper officers of said "Home," be received and detained as inmates of said "Home," in lieu of the Bridewell or House of Correction, until the expiration of such sentence. Ten per cent. of all moneys received for liquor licenses to go to the support of the Home.

PENNSYLVANIA SANITARIUM, 1867.

Habitual drunkards received on presentation by committee of applicant, or, if no committee, on production by guardian or next friend of certificate by two physicians on oath.

EXTRACT FROM AN ACT TO INCORPORATE THE WASHINGTONIAN HOME, BOSTON, MASS., 1869.

A corporation by the name of the Washingtonian Home, for the purpose of providing a retreat for inebriates, and the means for reforming them, with all the powers and privileges, and subject to all the duties, liabilities, and restrictions set forth in the forty-fourth chapter of the Revised Statutes.

EXTRACT FROM CHARTER OF MARYLAND INEBRIATE ASYLUM.

§ 5. The said board of trustees shall have power to receive and retain all inebriates who enter said Asylum either voluntarily *or are there placed by the order of any court*, or by the order of the com-

mittee of any habitual drunkard, or if such drunkard should be a minor, by the order of his or her parents or guardian; and the said board of trustees are authorized and empowered to employ all inebriates who are received into said Asylum in some useful occupation in or about the said Asylum: said inebriates shall have all moneys accruing from their labour, after the expenses of their support in said Asylum shall have been paid, which shall be sent to their families monthly: in case the said inebriates have no families, it shall be paid to him or her at their discharge from said Asylum.

In California is a law incorporating an Institution for Inebriates, with similar powers; and in Texas the Legislature long ago passed an act incorporating an Institution for the Cure of Inebriates, and appropriating one hundred thousand dollars for its construction, with ample legal powers.

In every State of the American Union the apparently irreclaimable Inebriate, if a tramp, a vagrant, or a pauper, is at public expense, by due magisterial warrant, committed to a confinement partaking almost entirely of a hospital nature—sometimes upon merely magisterial view, and often at the own request of the unfortunate patient. This expense is willingly borne from the tax-paying purse. In some of the States Inebriety is legislatively treated as a disease, which lessens and often destroys the intention, which is an element to many kinds of crime; and in nearly all the States, by the unwritten laws of evidence and judicial action, such Inebriety often wholly excuses acts of violence committed by the diseased Inebriate, and very generally mitigates such acts from (*e.g.*) alleged or apparent murder to manslaughter, or from alleged or apparent felonious assault into common assault—much-wise as the Central Criminal Court and Jury seem to have dealt with the recent charge against Lord St. Leonards. In several States the frenzy of *delirium tremens* or of *mania a potu* is as an admissible and debatable defence to crime, as to the element of intention, placed upon a plane with the frenzy of clearly-defined delusions or insane fancies. Which doctrine of juridical decision is regarded by American statute-makers as an additional reason why the State should deal protectively with Inebriety as a dangerous disease. In some States subsidies are given (of public moneys raised by taxation, or out of the proceeds of license fees for the sale of liquors) to private retreats for the treatment of Inebriety as a disease; and, coupled with a condition that the State may, to a prescribed extent, obtain the *quid pro quo* of occasional magisterial commitment of those Inebriates whose family circumstances in a

social way may recommend such commitment therein. A few States, however, continue to legislatively regard the diseased Inebriate as a *humanis hostis*—a species of social pirate. Happily, what was first done by American legislators in merely applying to Inebriety the doctrine of disease and hospital treatment, has been participated in by England; and possibly the mother country may soon outstrip the daughter-land in yet more beneficently recognizing in a parliamentary method the doctrines, the generous aims, and the beneficent far-reachings of this Society, which honours your Speaker with membership and audience. As, indeed, "*Saxon-ly*" (to coin a phrase), such honourable permission and audience may exist with a propriety and fitness of design: for—

"Are we not all children of the men who fought at Crecy,
 We were all Englishmen when Shakespeare wrote:
 We were all Englishmen, compatriots *in esse*,
 Though called Australians, Yankees, and what not.

"We are all Englishmen, and one in our devotion,
 Whether the York we have be old or new;
 And English if Boston o'erlooks the German Ocean,
 Or has the broad Atlantic in her view.

"We are all Englishmen, wedded in one great union
 Of blood and language, history and song;
 We are all English, and will cherish our communion
 In face of all the world the world's life long."

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OBJECT.

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